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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,388

Applicant(s)

SUCH ET AL.

Examiner

SHIRLEY JIAN

Art Unit

3769

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/08/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 0206 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The examiner acknowledges the response to office action to application 10/564,388 filed on January 2, 2009, wherein claims 1-20 are pending, claims 1-14 have been amended and claims 15-20 are newly added.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino

acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

The specification of the disclosure is objected to because the specification lacks proper headings for sub-sections such as background of invention, brief summary of the invention, etc. Corrections are required. See MPEP § 608.01(c).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12, lines 7-8 recites the limitation "said analysis means". There is insufficient antecedent basis for this limitation in the claim. Claims depending from claim 12, i.e. claims 13-20, are rejected as being dependent on a rejected claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 7,433,718 B2 to Manabe et al. (hereinafter as "Manabe").

Regarding claim 1, Manabe teach:

1. (Currently amended) A portable electronic device (see Fig. 2: mobile terminal- mobile phone),
~~(1) arranged to be brought into a contact with an individual's skin when being used by said individual, said device comprising:~~

a first contact surface (Fig. 2: mobile device has a first contact surface with electrode 24)
~~(6) arranged to be brought into contact with a head of an individual during usage of the device;~~
and

a second contact surface (Fig. 2: mobile device has a second contact surface with electrode 24) ~~(6)~~ arranged to contact skin on a hand of the individual, (col. 4, ll. 48-55: "When a user holds the mobile phone 20 to make a phone call, the mobile phone 20 maintains contact with [the] skin on a hand and the face of a user") wherein the first contact surface comprises a first electrode (Fig. 2, electrode 24) ~~(8)~~ and the second contact surface comprises a second electrode (Fig. 2, electrode 22) ~~(8)~~ said first electrode being electrically isolated from said second electrode (see Fig. 2, electrodes 22 and 24 are isolated from one another); and

~~the device further comprising means~~ a measuring component for measuring an electrical signal ~~(10)~~ from said first electrode and said second electrode during the usage of said device, said electrical signal being representative of a physiological condition of said individual (col.3, ll.27-38, a mobile device measures a biological signal from surface electrodes on the mobile device).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 9-11, 12-15 and 19-20 are rejected under 35 U.S.C. 103(a) as being anticipated by U.S. Patent No. 6,327,495 B1 to Iwabuchi et al. (herein after as "Iwabuchi") in view of U.S. Patent No. 7,433,718 B2 to Manabe.

Note to applicant: claims 1 is rejected above in 35 USC § 102, and alternatively, in 35 USC § 103.

Regarding claim 1, Iwabuchi teach a portable electronic device (see Fig. 1, intelligent terminal unit/health management device: portable telephone set "T"), comprising:

a first contact surface and a second contact surface (see Fig. 1, Iwabuchi teach a device with multiple contact surfaces capable of being brought into contact with a user's skin, col.3, ll.60-62 and col.5, ll.32-42) wherein the

first contact surface comprises a first electrode and the second contact surface comprises a second electrodes, said first electrode being electrically isolated from said second electrode (see Fig.1, electrodes A, B, C and D are on the front surface of the device, see col.5, ll.15-20; while electrodes E and F are on a different surface, see col.5, ll.33-35);

and a measuring component (control unit or alternatively, Fig.2: control section 21) for measuring an electrical signal from said first electrode and said second electrode during the usage of said device, said electrical signal being representative of a physiological condition of said individual (col.2, ll.51-56, a voltage detecting unit detects voltage from the electrodes, and a

control unit calculates a health management indicator based on the input and detected data, in this case, the health parameter is BMI, blood pressure and pulse rate (see col.9, ll.32-42));

but does not teach wherein the *first contact surface arranged to be brought into contact with a head of an individual during usage of the device*, and wherein the *second contact surface arranged to contact skin on a hand of the individual*. However Manabe, a reference in the remote diagnostics art, teach a mobile phone 20 (Fig. 2) comprising a first contact surface with electrode 22, and a second contact surface with electrode 24, wherein the contacts surfaces are arranged to be brought into contact with the skin on the hand and the face of user (col.4, ll.46-52). It would be obvious to one of ordinary skill in the art at the time of the invention to modify Iwabuchi's health management device with the configuration taught by Manabe (herein after as "modified Iwabuchi") because Manabe's orientation for electrode placement allows a user to take biological measurements during the conventional usage of a mobile device by simply and easily contacting the electrodes to the hand and ears of a user (col.3, ll.19-23 and ll.45-49).

Regarding claims 2-5 and 9-11, Iwabuchi teach:

2. (Currently amended) The ~~[[A]]~~ device according to claim 1, wherein said device further comprises ~~analysis means (20)~~ a sensor signal interpretation unit (Fig. 2: control unit) arranged to perform an analysis of said electrical signal ~~(M)~~ in order to derive a health-related parameter ~~(+5)~~ (col.2, ll.51-57, control unit calculates health management indicator based on input and detected data).

3. (Currently amended) The ~~[[A]]~~ device according to claim 2, wherein said device further comprises a user interface ~~(18)~~ (Fig. 1: LCD display unit 3, col. 5, ll. 1-3) connectable to said sensor signal interpretation unit analysis means ~~(20)~~, said user interface being arranged to present said health-related parameter to the individual (col.2, ll.54-57, display unit displays calculated results to the user).

4. (Currently amended) The ~~[[A]]~~ device according to claim 3, wherein said device further comprises a transmission component (Fig. 3: data communication between mobile terminal units "T" and "U" to aggregation center "S") ~~means (16)~~ arranged to forward said health-related parameter to a remotely arranged unit (col.2, ll.59-63, 2 way data communication is performed between the mobile terminal unit and a remote aggregation unit).

5. (Currently amended) The ~~[[A]]~~ device according to claim 1, wherein said device is arranged to measure an electrical signal generated by cardiac activity (see col.9, ll.32-42, portable telephone set has integrated sensors to measure blood pressure and a pulse rate).

9. (Currently amended) The ~~[[A]]~~ device according to claim 5, wherein said device is a telephone handset ~~(50)~~, the first contact surface comprising a housing area ~~(54)~~ of the telephone handset, said area being arranged in a direct vicinity of an earpiece ~~(53)~~, the second contact surface comprising a grip portion ~~(52)~~ of the telephone handset ~~(50)~~ (Fig. 1: a portable telephone comprising a housing area on main body 1 within the vicinity of microphone 5, and multiple side

surfaces as grip portion of the portable telephone).

10. (Currently amended) The [[A]] device according to claim 9, wherein said telephone handset is a mobile telephone handset (~~50~~), the first contact surface comprising a keypad (~~51~~), the second contact surface comprising a grip portion (~~52~~) of the mobile telephone handset (Fig. 1: a portable telephone comprising a numeral input 2 composed of ten-key pad, and multiple side surfaces as grip portion of the portable telephone).

11. (Currently amended) The [[A]] device according to claim 5, wherein said device comprises an earphone and a body unit, the first contact surface being arranged on the earphone, the second contact surface being arranged on the body unit (Fig. 1: a portable telephone comprising a microphone 6 and a main body 1).

Regarding claims 12 (Currently amended), Iwabuchi each a health management system (health management system) arranged to monitor a physiological condition of an individual (col.2, ll.6-9; health management system measures blood pressure and pulse rate and BMI), said system comprising:

[[~~-~~]] a portable electronic device sensing means (~~65~~) (see Fig. 1, intelligent terminal unit/health management device: portable telephone set "T") arranged to detect a signal representative of said condition (col.5, ll.15-42; portable telephone set "T" provides conductive electrodes to measure BMI) [[,]];

[[-]] a sensor signal interpretation unit analysis means (66) (Fig. 2: control unit) arranged to analyze said signal in order to derive a health-related parameter (66') (col.2, ll.51-57, control unit calculates health management indicator based on input and detected data) [[.]];

[[-]] a transmission component means (64') ~~actuatable~~ (Fig. 3: data communication between mobile terminal units "T" and "U" to an aggregation center "S") arranged to actuated by said analysis means, said transmission means being arranged to forward said parameter to a remotely arranged medical care provider (Fig.3, aggregation center "S") (62'); said provider being arranged to process said parameter in order to derive a health condition of said individual (col.2, ll.54-57, display unit displays calculated results to the user) [[.]]; wherein

[[-]] said sensing means (65) ~~comprise a portable electronic device arranged to be brought into a contact with an individual's skin when being used by said individual~~, said device comprising a first contact surface and a second contact surface (see Fig. 1, Iwabuchi teach a device with multiple contact surfaces capable of being brought into contact with a user's skin, col.3, ll.60-62 and col.5, ll.32-42) wherein the first contact surface comprises a first electrode and the second contact surface comprises a second electrode, said first electrode being electrically isolated from said second electrode (see Fig.1, electrodes A, B, C and D are on the front surface of the device, see col.5, ll.15-20; while electrodes E and F are on a different surface, see col.5, ll.33-35); the device further comprising means

a measuring component (control unit or alternatively, Fig.2: control section 21) for measuring an electrical signal from said first electrode and said second electrode during the usage of said device, said electrical signal being representative of a physiological condition of said individual (col.2, ll.51-56, a voltage detecting unit detects voltage from the electrodes, and a

control unit calculates a health management indicator based on the input and detected data, in this case, the health parameter is BMI, blood pressure and pulse rate (see col.9, ll.32-42));

but does not teach wherein the first contact surface is arranged to be brought into contact with a head of an individual during usage of the device and the second contact surface is arranged to contact skin of a hand of the individual. However Manabe, a reference in the remote diagnostics art, teach a mobile phone 20 (Fig. 2) comprising a first contact surface with electrode 22, and a second contact surface with electrode 24, wherein the contacts surfaces are arranged to be brought into contact with the skin on the hand and the face of user (col.4, ll.46-52). It would be obvious to one of ordinary skill in the art at the time of the invention to modify Iwabuchi's health management device with the configuration taught by Manabe (herein after as "modified Iwabuchi") because Manabe's orientation for electrode placement allows a user to take biological measurements during the conventional usage of a mobile device by simply and easily contacting the electrodes to the hand and ears of a user (col.3, ll.19-23 and ll.45-49).

Regarding claims 13-15 and 19-20 Iwabuchi teach:

13. (Currently amended) [[A]] The health management system according to claim 12, wherein the transmission component (Fig. 3: data communication between mobile terminal units T and U to aggregation center S) means is arranged for transmitting said parameter by means of a wireless signal to a base unit arranged to enable a connection to the medical care provider (aggregation center "S") by means of a communication network (col.2, ll.59-63, 2 way data communication is performed between the mobile terminal unit and the aggregation unit, a mobile

unit uses wireless telephone network).

14. (Currently amended) ~~[[A]]~~ The health management system according to claim 12, wherein the device further comprises a user interface ~~actuable~~ arranged to be actuated (change over switch 9 and 10) by the sensor signal interpretation unit ~~analysis means~~, said user interface being arranged to present said parameter to the individual (col.6, ll.24- col.7, ll.9; user selects change-over switch 9 to activate BMI measurement on portable telephone set "T", then set "T" queries the user to input personal information and detects body fat, then calculates and displays body fat rate and BMI when the user selects display change-over switch 10).

15. (New) The health management system according to claim 12, wherein said device is arranged to measure an electrical signal generated by cardiac activity (see col.9, ll.32-42, portable telephone set has integrated sensors to measure blood pressure and a pulse rate).

19 (New) The health management system according to claim 12, wherein said device is a telephone handset, the first contact surface comprising a housing area of the telephone handset, said area being arranged in a direct vicinity of an earpiece, the second contact surface comprising a grip portion of the telephone handset (Fig. 1: a portable telephone comprising a housing area on main body 1 within the vicinity of microphone 5, and multiple side surfaces as grip portion of the portable telephone).

20. (New) The health management system according to claim 19, wherein said telephone handset is a mobile telephone handset, the first contact surface comprising a keypad, the second contact surface comprising a grip portion of the mobile telephone handset (Fig. 1: a portable telephone comprising a numeral input 2 composed of ten-key pad, and multiple side surfaces as grip portion of the portable telephone).

Claims 6-8 and 16-18 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 6,327,495 B1 to Iwabuchi in view of U.S. Patent No. 7,433,718 B2 to Manabe as applied to claims 1 and 12 above.

Regarding claim 6-7 and 16-17, Iwabuchi and Manabe do not teach a device for measuring an electrical signal generated by cardiac activity wherein the device is an electric shaver comprising multiple shaving heads with a first electrode and a grip portion with a second electrode. However, Manabe teach a mobile terminal capable of measuring a biological signal wherein "[m]obile terminal . . . includes a variety of terminals having various shapes or functions...[t]he present invention can be applied to...any other terminal that can contact human skin." (col.5, ll.48-col.6, ll.3) At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to substitute a mobile telephone unit with an electric shaver embodiment because Applicant has not disclosed that a portable health management device wherein the device is an electric shaver provides an advantage. In fact, the specification lists an electric shaver as a suitable device that brings electrodes into a contact with the individual's skin (applicant at [0010]). One of ordinary skill in

the art, furthermore, would have expected Applicant's invention to perform equally well with the mobile phone embodiment taught by Manabe because the mobile phone unit is a suitable unit where a user is able to contact both surfaces respectively with the skin on the hand and cheek of the user to complete the electric circuitry to measure an electric signal representative of cardiac activity.

Regarding claims 8 and 18, Iwabuchi and Manabe do not teach a device for measuring an electrical signal generated by cardiac activity wherein the device is an electric toothbrush a first contact surface comprising a brush head and a second contact surface comprising a grip portion of the toothbrush. However, Manabe teach a mobile terminal capable of measuring a biological signal wherein "[m]obile terminal . . . includes a variety of terminals having various shapes or functions . . . [t]he present invention can be applied to...any other terminal that can contact human skin." (col.5, ll.48-col.6, ll.3) At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to substitute a mobile telephone unit with an electric toothbrush embodiment because Applicant has not disclosed that a portable health management device wherein the device is an electric toothbrush provides an advantage, is used for a particular purpose, or solves a stated problem. In fact, the specification lists an electric toothbrush as a suitable device that brings electrodes into a contact with the individual's skin (applicant at [0010]). One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the mobile phone embodiment taught by Manabe because the mobile phone unit is a suitable unit where a user is

able to contact both surfaces respectively with the skin on the hand and cheek of the user to complete the electric circuitry to measure an electric signal representative of cardiac activity.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHIRLEY JIAN whose telephone number is (571)270-7374. The examiner can normally be reached on M-F 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hank Johnson can be reached on 571-272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SHIRLEY JIAN/
Examiner, Art Unit 3769

/Michael C. Astorino/
Primary Examiner, Art Unit 3769

March 11, 2009